

Notice of Allowability

Application No.

10/646,244

Applicant(s)

BARDY, GUST H.

Examiner

Carl H. Layno
Carl H. Layno 1/5/2005

Art Unit

3762

-- Th MAILING DATE of this communication app ars on the cover sheet with th correspondenc address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper No. 11222004.
2. ☒ The allowed claim(s) is/are 2-13, 15-25 and 27-34.
3. ☒ The drawings filed on 22 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Acknowledgment is made of applicant's amendment which was received by the Office on November 22, 2004.

2. Claims 1, 14, and 26 are canceled. Claims 2-13, 15-25, and 27-34 are active.

Claim Rejections - 35 USC § 102

3. Upon further reconsideration of applicant's claim cancellations and claim amendments, the Examiner is withdrawing the 35 U.S.C 102(e) rejections based upon the Walker et al '844 and Finkelstein et al '923 patents, which were made against claims 1, 11-14, 23-26, 33, and 34 in the last Office action.

Allowable Subject Matter

4. Claims 2-13, 15-25, and 27-34 are allowed.

Reasons for Allowance

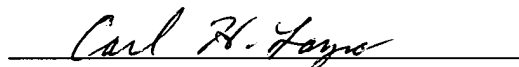
5. The following is an examiner's statement of reasons for allowance:

Independent claims 6, 19, and 29, as amended, now further specify a system, method, and associated storage medium; respectively, for collecting physiological measures of a patient for storage in a database during an initial time period in which the patient is performing a "prescribed set of timed physical stressors". The prior art patents of Peters '640 and Wright et al

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'276 describe systems in which a patient's stress test results are stored in a system. That of Wright et al also includes both a database and a server (Figs. 36-37B). Unlike applicant's claims, however, neither of these references teaches processing the resultant stress test information into "derived patient information" for use in a "baseline reference" indicating initial patient status. As a result of this shortcoming, the Examiner deems these claims and their depending claims to be allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A handwritten signature in cursive script, reading "Carl H. Layno", is written over a horizontal line.

CARL LAYNO
PRIMARY EXAMINER

CHL
01/05/2005